

AMENDED IN ASSEMBLY APRIL 9, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1986

Introduced by Assembly Member Linder

February 19, 2014

An act to amend *and repeal* Section ~~11202~~ 11205 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1986, as amended, Linder. Vehicles: traffic violator school program.

Existing law provides for the licensing and administration by the Department of Motor Vehicles of traffic violator schools, operators, and instructors. Existing law authorizes a court, after a deposit of bail and bail forfeiture, a plea of guilty or no contest, or a conviction, to order or permit a person who holds a specified class of driver's license who pleads guilty or no contest to, or is convicted of, a traffic offense to attend a traffic violator school. Existing law requires the court to make available to each person who is ordered to attend traffic violator school the department's current list of licensed traffic violator schools.

Existing law requires the Department of Motor Vehicles to provide a list of licensed traffic violator schools on its Internet Web site, as specified. For each licensed school, existing law requires the list to indicate, among other things, the modalities of instruction offered. When a court or traffic assistance program (TAP) provides a hard copy list of licensed traffic violator schools to a traffic violator, existing law requires the court or TAP to provide only a current date-stamped list downloaded from the department's Internet Web site.

This bill would require a list of licensed traffic violator schools to include only those schools that offer classroom-based instruction, and would delete the requirement that the list indicate the modalities of instruction offered for each licensed traffic violator school.

~~Existing law provides for the licensing and administration by the Department of Motor Vehicles of traffic violator schools, operators, and instructors. Existing law authorizes a court, after a deposit of bail and bail forfeiture, a plea of guilty or no contest, or a conviction, to order a continuance of the proceeding against a person who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration of completion of a program at a licensed school for traffic violators, and to order that the conviction be held confidential, except as specified.~~

~~Existing law establishes traffic violator school licensing requirements and requires the Department of Motor Vehicles to license traffic violator school operators. Existing law authorizes a person to be an operator for more than one traffic school if the schools have a common owner or owners and the schools share a single established business address.~~

~~This bill would prohibit a person from being an operator for more than one traffic violator school licensed to provide Internet-based or home study-based instruction, and would limit the authority described above to a person who operates more than one traffic violator school offering only classroom-based instruction.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11205 of the Vehicle Code, as added by
- 2 Chapter 599 of the Statutes of 2010, is amended to read:
- 3 11205. (a) The department shall provide a list of licensed
- 4 traffic violator schools *that offer classroom-based instruction* on
- 5 its Internet Web site. For each licensed school, the list shall ~~indicate~~
- 6 ~~the modalities of instruction offered and~~ specify the cities where
- 7 classroom instruction is offered. The sequential listing of licensed
- 8 schools shall be randomized daily.
- 9 (b) When a court or traffic assistance program (TAP) provides
- 10 a hard copy list of licensed traffic violator schools to a traffic
- 11 violator, the court or TAP shall provide only a current date-stamped
- 12 list downloaded from the department's Internet Web site. *The hard*

1 *copy list shall include only licensed traffic violator schools offering*
2 *classroom-based instruction.* The hard copy list shall be as current
3 as practicable, but in no event shall a list be distributed with a date
4 stamp that is more than 60 days old.

5 (c) The department shall, by April 1, 2012, develop a Web-based
6 database that will enable the department, the courts, and traffic
7 violator schools to monitor, report, and track participation and
8 course completion. Traffic violator schools shall update course
9 information within three business days of class completion and
10 provide to the courts class completion information on a daily basis.

11 ~~(d) This section shall become operative on September 1, 2011.~~

12 *SEC. 2. Section 11205 of the Vehicle Code, as amended by*
13 *Section 193 of Chapter 76 of the Statutes of 2013, is repealed.*

14 ~~11205. (a) The department shall publish semiannually, or more~~
15 ~~often as necessary to serve the purposes of this act, a list of all~~
16 ~~traffic violator schools which are licensed pursuant to this section.~~
17 ~~The list shall identify classroom facilities within a judicial district~~
18 ~~that are at a different location from a licensed school's principal~~
19 ~~facility. The department shall transmit the list to each municipal~~
20 ~~court and to each superior court in a county in which there is no~~
21 ~~municipal court, with a sufficient number of copies to allow the~~
22 ~~courts to provide one copy to each person referred to a licensed~~
23 ~~traffic violator school. The department shall, at least semiannually,~~
24 ~~revise the list to ensure that each court has a current list of all~~
25 ~~licensed traffic violator schools.~~

26 ~~(b) Each licensed traffic violator school owner shall be permitted~~
27 ~~one school name per judicial district.~~

28 ~~(c) The referral list shall be organized alphabetically, in sections~~
29 ~~for each county, and contain subsections for each judicial district~~
30 ~~within the county. The order of the names within each judicial~~
31 ~~district shall be random pursuant to a drawing or lottery conducted~~
32 ~~by the department.~~

33 ~~(d) Except as otherwise provided in subdivision (d) of Section~~
34 ~~42005, the court shall use either the current referral list of traffic~~
35 ~~violator schools published by the department when it orders a~~
36 ~~person to complete a traffic violator school pursuant to subdivision~~
37 ~~(a) or (b) of Section 42005 or, when a court utilizing a nonprofit~~
38 ~~agency for traffic violator school administration and monitoring~~
39 ~~services in which all traffic violator schools licensed by the~~
40 ~~department are allowed the opportunity to participate, a statewide~~

1 referral list may be published by the nonprofit agency and
2 distributed by the court. The agency shall monitor each classroom
3 location situated within the judicial districts in which that agency
4 provides services to the courts and is represented on its referral
5 list. The monitoring shall occur at least once every 90 days with
6 reports forwarded to the department and the respective courts on
7 a monthly basis.

8 (e) The court may charge a traffic violator a fee to defray the
9 costs incurred by the agency for the monitoring reports and services
10 provided to the court. The court may delegate collection of the fee
11 to the agency. Fees shall be approved and regulated by the court.
12 Until December 31, 1996, the fee shall not exceed the actual cost
13 incurred by the agency or five dollars (\$5), whichever is less.

14 SECTION 1. Section 11202 of the Vehicle Code is amended
15 to read:

16 11202. (a) Except as provided in subdivision (c), a traffic
17 violator school owner shall meet all of the following criteria before
18 a license may be issued for the traffic violator school:

19 (1) Maintain an established place of business in this state that
20 is open to the public. An office or place of business of a traffic
21 violator school, including any traffic violator school branch or
22 classroom location, shall not be situated within 500 feet of any
23 court of law.

24 (2) Conform to standards established by regulation of the
25 department. In adopting the standards, the department shall
26 consider those practices and instructional programs that may
27 reasonably foster the knowledge, skills, and judgment necessary
28 for compliance with traffic laws. The department shall establish
29 standards for each instructional modality, which may include
30 requirements specific to each modality. The standards may include,
31 but are not limited to, classroom facilities, school personnel,
32 equipment, curriculum, procedures for the testing and evaluation
33 of students, recordkeeping, and business practices.

34 (3) Procure and file with the department a bond of fifteen
35 thousand dollars (\$15,000) for home study schools and two
36 thousand dollars (\$2,000) for classroom-based schools executed
37 by an admitted surety and conditioned upon the applicant not
38 practicing fraud or making a fraudulent representation that will
39 cause a monetary loss to a person taking instruction from the
40 applicant or to the state or any local authority.

1 ~~(4) Have the proper equipment necessary for giving instruction~~
2 ~~to traffic violators.~~

3 ~~(5) Have a lesson plan approved by the department, except as~~
4 ~~provided for in paragraph (2) of subdivision (c), and provide not~~
5 ~~less than the minimum instructional time specified in the approved~~
6 ~~plan. The approved plan shall include a postlesson knowledge test.~~
7 ~~The lesson plan for each instructional modality shall require~~
8 ~~separate approval by the department.~~

9 ~~(6) (A) Execute and file with the department an instrument~~
10 ~~designating the director as agent of the applicant for service of~~
11 ~~process, as provided in this paragraph, in any action commenced~~
12 ~~against the applicant arising out of a claim for damages suffered~~
13 ~~by a person by the applicant's violation of a provision of this code~~
14 ~~committed in relation to the specifications of the applicant's traffic~~
15 ~~violation school or a condition of the bond required by paragraph~~
16 ~~(3).~~

17 ~~(B) The applicant shall stipulate in the instrument that a process~~
18 ~~directed to the applicant, when personal service cannot be made~~
19 ~~in this state after due diligence, may be served instead upon the~~
20 ~~director or, in the director's absence from the department's~~
21 ~~principal offices, upon an employee in charge of the office of the~~
22 ~~director, and this substituted service is of the same effect as~~
23 ~~personal service on the applicant. The instrument shall further~~
24 ~~stipulate that the agency created by the designation shall continue~~
25 ~~during the period covered by the license issued pursuant to this~~
26 ~~section and so long thereafter as the applicant may be made to~~
27 ~~answer in damages for a violation of this code for which the surety~~
28 ~~may be made liable or a condition of the bond.~~

29 ~~(C) The instrument designating the director as agent for service~~
30 ~~of process shall be acknowledged by the applicant before a notary~~
31 ~~public.~~

32 ~~(D) If the director or an employee of the department, in lieu of~~
33 ~~the director, is served with a summons and complaint on behalf~~
34 ~~of the licensee, one copy of the summons and complaint shall be~~
35 ~~left with the director or in the director's office in Sacramento or~~
36 ~~mailed to the office of the director in Sacramento. A fee of five~~
37 ~~dollars (\$5) shall also be paid to the director or employee at the~~
38 ~~time of service of the copy of the summons and complaint, or shall~~
39 ~~be included with a summons and complaint served by mail.~~

1 ~~(E) The service on the director or department employee pursuant~~
2 ~~to this paragraph is sufficient service on the licensee if a notice of~~
3 ~~the service and a copy of the summons and complaint are, on the~~
4 ~~same day as the service or mailing of the summons and complaint,~~
5 ~~sent by registered mail by the plaintiff or his or her attorney to the~~
6 ~~licensee. A copy of the summons and complaint shall also be~~
7 ~~mailed by the plaintiff or plaintiff's attorney to the surety on the~~
8 ~~licensee's bond at the address of the surety given in the bond;~~
9 ~~postpaid and registered with request for return receipt.~~

10 ~~(F) The director shall keep a record of all processes served~~
11 ~~pursuant to this paragraph showing the day and hour of service,~~
12 ~~and shall retain the documents served in the department's files.~~

13 ~~(G) If the licensee is served with process by service upon the~~
14 ~~director or a department employee in lieu of the director, the~~
15 ~~licensee has 30 days after that service within which to answer any~~
16 ~~complaint or other pleading filed in the cause. For purposes of~~
17 ~~venue, if the licensee is served with process by service upon the~~
18 ~~director or a department employee in lieu of the director, the service~~
19 ~~is considered to have been made upon the licensee in the county~~
20 ~~in which the licensee has or last had his or her established place~~
21 ~~of business.~~

22 ~~(7) (A) Meet the requirements of Section 11202.5, relating to~~
23 ~~traffic violator school operators, if the owner is also the operator~~
24 ~~of the traffic violator school. If the owner is not the operator of~~
25 ~~the traffic violator school, the owner shall designate an employee~~
26 ~~as operator who shall meet the requirements of Section 11202.5.~~

27 ~~(B) A person may be an operator for more than one traffic~~
28 ~~violator school offering only classroom-based instruction if (i) the~~
29 ~~schools have a common owner or owners and (ii) the schools share~~
30 ~~a single established business address. A person shall not be an~~
31 ~~operator for more than one traffic violator school licensed to~~
32 ~~provide Internet-based or home study-based instruction.~~

33 ~~(C) A traffic violator school with multiple branch locations may~~
34 ~~designate a separate operator for each location, but shall designate~~
35 ~~one of the operators as the primary contact for the department.~~

36 ~~(8) Have an instructor who meets the requirements of Section~~
37 ~~11206. An owner who is designated as the operator for the school~~
38 ~~is authorized to act as an instructor without meeting the~~
39 ~~requirements of Section 11206. The owner license may also include~~
40 ~~authorization to act as an instructor if the owner is not designated~~

1 as the operator but meets the requirements of Section 11206. The
2 owner license shall specify if the owner is authorized to offer
3 instruction. If the owner is not approved to act as an instructor, the
4 school must employ an instructor licensed pursuant to Section
5 11206.

6 (9) Provide the department with a written assurance that the
7 school will comply with the applicable provisions of Subchapter
8 H or III of the Americans with Disabilities Act of 1990 (42 U.S.C.
9 Sec. 12101 et seq.), and any other federal and state laws prohibiting
10 discrimination against individuals with disabilities. Compliance
11 may include providing sign language interpreters or other
12 accommodations for students with disabilities.

13 (b) The qualifying requirements specified in subdivision (a)
14 shall be met within one year from the date of application for a
15 license, or a new application and fee are required.

16 (c) A court-approved program that was in operation prior to
17 July 1, 2011, shall file an application for licensure as a traffic
18 violator school by March 1, 2012. A court shall not approve a
19 traffic violator school program after July 1, 2011.

20 (1) A court-approved program may continue to operate as
21 approved by a court until the department makes a licensing
22 decision.

23 (2) The department shall approve or deny all completed
24 applications filed pursuant to this subdivision no later than
25 December 31, 2012.

26 (3) A court-approved program shall be exempt from paragraph
27 (5) of subdivision (a). The licensed program may continue to use
28 the curriculum approved by the court until the department
29 establishes curriculum standards in regulation. The court-approved
30 program must comply with the new curriculum standards by the
31 effective date established in regulation.

32 (d) Paragraphs (3) and (6) of subdivision (a) do not apply to
33 public schools or other public agencies, which shall also not be
34 required to post a cash deposit pursuant to Section 11203.

35 (e) Paragraph (7) of subdivision (a) does not apply to public
36 schools or other public educational institutions.

37 (f) A notice approved by the department shall be posted in every
38 traffic violator school, branch, and classroom location, and
39 prominently displayed on a home study or Internet program, stating
40 that any person involved in the offering of, or soliciting for, a

- 1 ~~completion certificate for attendance at a traffic violator school~~
- 2 ~~program in which the person does not attend or does not complete~~
- 3 ~~the minimum amount of instruction time may be guilty of violating~~
- 4 ~~Section 134 of the Penal Code.~~